

# *Implementation*

## LESSONS FROM THE FIELD



# BEST PRACTICES: Outreach & Education

**Begin outreach immediately:** Outreach should start even before implementation if possible to give employers and trusted messengers the time to get information out.

**Use different trainings and materials for employers and for employees:**

Everyone needs information on the basics of how the program works and what kinds of leave are included. But employers and employees will both trust information more if materials are designated for them. Employers will want to know information such as how to determine if someone is eligible for leave and how to calculate and track the time, while employees need to know how they earn time, and what to do if they are denied paid leave. Both employers and employees need accessible, clear materials like FAQs.<sup>1</sup>

**Create specialized materials when needed:**

Some industries may require dedicated materials or events. New York City, for instance, created fact sheets to show how the paid sick days law would affect domestic workers.<sup>2</sup> For paid sick days implementation, Seattle tailored programs for law firms and industry groups.<sup>3</sup>

**Get community feedback to make sure materials are culturally and linguistically accurate**

**Get community feedback to make sure materials are culturally and linguistically accurate:**

When creating materials for populations with different cultural or linguistic backgrounds, involving community members ensures usability. In Philadelphia, community members continue to offer feedback on the readability and accuracy of translated factsheets and other materials created by the paid sick days coalition.

<sup>1</sup>"Top Tips from Connecticut San Francisco, Seattle, and New York City." *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

<sup>2</sup>"Top Tips from Connecticut San Francisco, Seattle, and New York City." *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

<sup>3</sup>"Top Tips from Connecticut San Francisco, Seattle, and New York City." *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

**Develop varied outreach methods:** Different groups will respond to different methods of outreach. Cities and states use outreach including webinars, social media, community meetings, and well-staffed 24-7 hotline phone numbers. More specifically, Seattle relied on postcards, a listserv, bus ads, and provided trainings throughout the city in paid sick days implementation. San Francisco, meanwhile, sent leaflets home with elementary school students.<sup>4</sup> San Francisco employers learned about the law through merchant walks, mailings with business license renewals, presentations at food safety classes, and letters to restaurants.<sup>5</sup> Newark includes paid sick days information on their website for businesses.<sup>6</sup> Connecticut and Oregon created employer hotlines so business owners could determine if certain employees were covered.

**Offer multiple points of contact:** Employers and employees with questions will have varying degrees of comfort with each contact method. Phone, email, fax, websites, and online chats are all important methods of communication.<sup>7</sup> In California, the Employment Development Department (EDD) utilizes an “Ask EDD” program allowing workers and employers to find answers to questions through a series of drop-down menus.



### Develop varied outreach methods

**Connect with other state and local agencies:** The public interacts with a variety of government agencies. When creating materials, include items such as newsletter articles or drop-in text that allow all government departments, websites, etc., to link easily to a central website about paid leave. Notices about labor laws can go out with business license renewals, tax forms, or other business communication.

**Use traditional marketing for outreach, but don't make that the only outreach method:** It is important to design public service announcements for television and radio and create advertisements in public spaces and billboards in multiple languages. However, many employees, particularly low-income or immigrant workers, will assume new laws don't apply to them until they learn otherwise from trusted sources. Partnering with the community is critical to strong outreach and implementation.

<sup>4</sup>“Top Tips from Connecticut San Francisco, Seattle, and New York City.” *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

<sup>5</sup>“Top Tips from Connecticut San Francisco, Seattle, and New York City.” *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

<sup>6</sup>“Newark Business - Bids, RFP, RFQ, Business Permits...” *City of Newark New Jersey Business Comments*. N.p., n.d. Web. 31 July 2016.

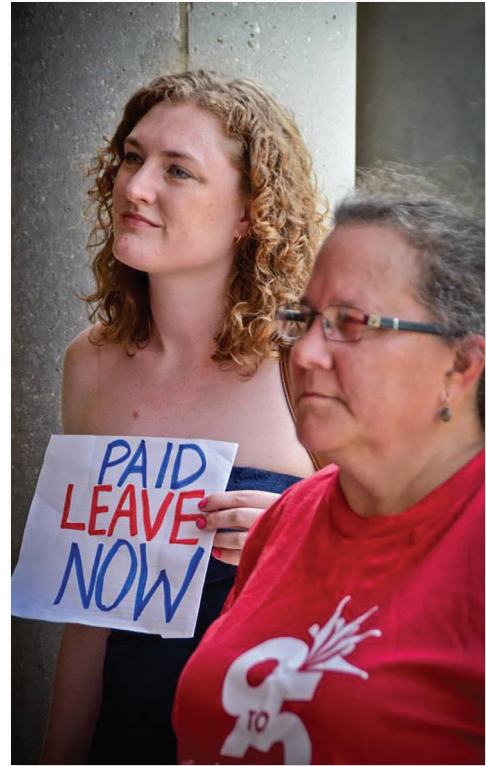
<sup>7</sup>“Top Tips from Connecticut San Francisco, Seattle, and New York City.” *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

### **Consider smart apps on computers and mobile devices:**

Many low-income community members rely on cell phones or smart phones, but have little access to computers. These workers need programs such as the ones used to apply for the SNAP [food stamp] program or Turbo Tax. For those who go onto the state's PFL web portal, offer online web chats and pop-up ads linked to other related internet content. Do not rely only on online content, however. In California, advocates found low-wage and immigrant workers do not feel familiar with computers and preferred paper materials and forms.

**Partner with community groups:** Public-private partnerships with community groups can help the agency be in more places at the same time. These partnerships leverage trusted relationships that have already been built with local groups to ensure that workers and businesses are treated fairly.<sup>8</sup> For example, the California

Work-Family Coalition has trained Promotoras (community members with specialized health training who bring that education to others in their community) at a local health clinic on paid sick days and paid family leave laws to educate the community. Community organizations can also develop Know Your Rights curricula that include ways to get involved in enforcement and in newlegislative campaigns. Agencies can create direct contracts with organizations, ask for an advisory relationship, or ask organizations to disseminate materials created by the enforcing agency. To ensure paid leave work continues beyond the funding period, community groups should embed their outreach within their day-to-day operations.



**Don't rely  
only on  
online content**

**Develop roles for worker organizations:** Local workers' centers or unions can educate and do outreach; help monitor and detect violations; assist in filing complaints; and identify industries or employers with a history or likelihood of high rates of violations.<sup>9</sup>

<sup>8</sup>Ichikawa, Diego Rondón, and Rebecca Smith. "Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle." *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.

<sup>9</sup>Yoon, Haeyoung, and Tsedeye Gebreselassie. "Building Robust Labor Standards Enforcement Regimes in Our Cities and Counties." *National Employment Law Project*. NELP, Mar. 2015. Web. 29 July 2016.

**Encourage community representation during active investigations:** OSHA has community representatives walk the floors with them during an investigation to point out violations or highlight anything that has recently changed or been concealed.<sup>10</sup> Community groups can offer similar services by participating in investigations or locating employees in workplaces with violations. If community groups get involved, keep them informed about cases. That connection helps community groups keep the worker informed and access information needed to bring other cases. If the agency imposes a “cone of silence” once they begin a case, that silence can dissuade other workers from coming forward.<sup>11</sup>

**Create an RFP process to contract with community-based organizations:** Grants to community groups need to be sufficient to cover the staffing needed, and focus on engaging diverse populations.<sup>12</sup> Encourage community engagement so the work continues beyond the funding as more and more community members become informed and pass on information to their own networks. In Seattle, an RFP covering outreach for minimum wage, wage theft, paid sick days, and other labor laws gave community organizations an opportunity to reach low-income workers on a variety of important issues.

**Use data to locate workers who will be newly eligible based on the industry in which they work:**<sup>13</sup> Intentional outreach to industries with low-wage workers or those likely to have violations will increase chances that the new law will boost income and job security for vulnerable populations.

**Involve community representatives during investigations**

**Work with community groups to remove barriers to usage by undocumented workers:** Workers need to know the enforcement agency will not use immigration status as a reason to deny paid leave or carry out any adverse actions. Groups based among undocumented workers should identify barriers and design appropriate remedies.

<sup>10</sup> Ichikawa, Diego Rondón, and Rebecca Smith. “Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle.” *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.

<sup>11</sup> Fine, Janice. “Tackling Exploitation Through the Co-production of Labor Standards Enforcement.” *The LIFT Fund*. The Lift Fund, Sept. 2015. Web. 5 Aug. 2016.

<sup>12</sup> Ichikawa, Diego Rondón, and Rebecca Smith. “Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle.” *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.

<sup>13</sup> Top Tips from Connecticut San Francisco, Seattle, and New York City.” *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

**Partner with employers to reach the business community:** Business owners like to receive messages from other business owners or from people who understand their challenges. They also want to know what to do/how to comply but may be concerned about new mandates. Outreach for employers should include explanations of the business case for paid leave, concrete assistance on administering the program (such as timesheet tools<sup>14</sup>) and clear instructions on responsibilities.

**Include concrete tools to help employers administer the program.**

**Create a business RFP process:** Seattle became one of the first cities in the country to use an RFP process to fund business-to-business outreach around implementation for paid sick days, minimum wage, and other labor laws. Similar to the RFP created to fund community organizations, Seattle's business RFP is to contract with organizations "to expand outreach, education, and technical assistance to Seattle small businesses" on labor laws including paid sick days.

**Make sure that those who receive leave know other family members may be eligible:** In Rhode Island, many mothers found out about Temporary Caregivers Insurance (TCI) when applying for Temporary Disability Insurance for childbirth. However, until recently, no effort was made to inform them that their partners could qualify for TCI, resulting in low levels of fathers applying for the program. Adoptive and foster families also have low levels of uptake, possibly due to lack of information.

**Make sure leave-takers know other family members may be eligible.**

**Piggy-back existing programs to increase outreach around leave:** In New Jersey, one implementation pilot combined paid leave outreach with the ACA signup period. Workers would talk to ACA clients one-on-one and follow up with email and phone calls. Approximately 500 patients received paid leave education during one ACA signup period.

<sup>14</sup>"Top Tips from Connecticut San Francisco, Seattle, and New York City," *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.



**Budget for education and outreach:** California had a small budget the first year of implementation for an education and outreach campaign on family leave using billboards, posters, printed materials and PSAs in multiple languages. After that, the EDD did not have funds for education and outreach until the California Work-Family Coalition engaged the state legislature in a successful campaign to allocate funds. Today, in part because of the outreach gap, too many of the lowest income families, new immigrants and young workers still do not know their rights when it comes to Paid Family Leave and do not use it when they need it.<sup>15</sup>

**Ensure sufficient training, workloads and support for staff:** Community advocates can train agency staff on the impact of paid family leave and the difference it will make in people's lives. That has to go hand in hand with sufficient staffing to make workloads manageable, clearly laid out protocols and training.



<sup>15</sup> Andrew Chang & Company, LLC. "Paid Family Leave Market Research (Appendix)." *Employment Development Department. State of California*, 13 July 2015. Web. 2 Aug. 2016.

# REGULATION AND ENFORCEMENT

**Create the rules with diverse stakeholders:** Stakeholders need to be heard as early in the process as possible so that agency staff can validate concerns and respond to their questions. In Seattle, diverse stakeholders including community organizations, employer groups, and refugee employer associations became part of the process.<sup>16</sup>

**Build in regular rules evaluation and be prepared to revise:** As a new law takes effect, regulations may need revision to ease burdens on the public or to get in line with other new labor practices. Continued review and revisiting of the law will enshrine (or end) common practices that spring up over time.<sup>17</sup>

**Take into account the ease of obtaining documentation:** In Rhode Island, many non-birth parents were initially denied Temporary Caregivers Insurance because they could not provide a birth certificate (RI issues birth certificates 6-8 weeks after a child leaves the hospital). RI now allows parents to provide documentation affirming parentage provided by the hospital or the doctor.<sup>18</sup>

**Avoid complaint-only enforcement:** A complaint-only system assumes that all affected workers will come forward. Yet to do so requires the worker being comfortable with the system, knowing his/her rights, being comfortable speaking English, and feeling protected from retaliation.<sup>19</sup> Whenever possible, give the agency the right to investigate at their discretion and allow third-party complaints. Directed investigations focused on industries suspected of noncompliance lead to better returns: companies investigated directly show a 56% likelihood of compliance the following year compared to a 13% probability of compliance after complaint-based investigations.<sup>20</sup>

<sup>16</sup> "Top Tips from Connecticut San Francisco, Seattle, and New York City." *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

<sup>17</sup> "Top Tips from Connecticut San Francisco, Seattle, and New York City." *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

<sup>18</sup> *Reducing Paid Family Leave Denial Rates for Fathers in Rhode Island*. Issue brief. Milwaukee: Family Values @ Work, 2015. Print.

<sup>19</sup> Ichikawa, Diego Rondón, and Rebecca Smith. "Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle." *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.

<sup>20</sup> Ichikawa, Diego Rondón, and Rebecca Smith. "Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle." *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.



**Expand beyond specific workers:** When agencies investigate based only on complaints, they tend to focus on the individual worker who complained rather than looking at systematic problems or issues (for instance, a company that violates paid family leave may also be violating minimum wage or wage theft laws).<sup>21</sup> Treating individual complaints as possibly being employer-wide will benefit workers who would otherwise be reluctant to come forward.<sup>22</sup>

**Low-wage earners are least likely to earn benefits even when required by law**

**Use limited resources best:** When agencies receive complaints, they should avoid a “first in, first out” policy to address them. Agencies can use limited resources best by focusing on high profile opportunities, investigations that benefit hard-to-reach populations, serious violations, the potential to collaborate with worker organizations, and cases with a high threat of retaliation or reoccurrence.<sup>23</sup>

**Look for workers most likely to need enforcement assistance:** The lowest wage earners are often least likely to earn the minimum wage, paid sick days, or other labor benefits even when required by law. In general, look for industries with vulnerable workers who are unlikely to come forward. Sectors that rely on third party management, franchising, and/or subcontracting are also likely to have issues.<sup>24</sup>



<sup>22</sup>Yoon, Haeyoung, and Tsedeye Gebreselassie. “Building Robust Labor Standards Enforcement Regimes in Our Cities and Counties.” *National Employment Law Project*. NELP, Mar. 2015. Web. 29 July 2016.

<sup>23</sup>Ichikawa, Diego Rondón, and Rebecca Smith. “Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle.” *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.

<sup>24</sup>Ichikawa, Diego Rondón, and Rebecca Smith. “Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle.” *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.

**Use enforcement to make the worker whole and prevent future violations:**<sup>25</sup>

Remedies can include back wages, liquidated damages, interest, and monetary penalties. The agency can also seek injunctive relief and monitoring for high profile cases. In extreme cases, consider criminal consequences for violators (ranging from fines to jail terms) in addition to civil penalties.<sup>26</sup>

**Fines should act as a deterrent**

**Give businesses a grace period after the law begins:** Even when the law goes into effect, many businesses may remain unaware of its provisions. Seattle, New York City, and Philadelphia (among others) used the initial period after passing paid sick days laws to educate employers and give violators an opportunity to conform to the law.<sup>27</sup> This policy should have a clear end date.

**Compensate workers using a “treble damage” policy:** To prevent violators and make workers more likely to come forward, “compensatory fines should act as a deterrent. Even first-time violators or businesses who satisfy judgments against them should not be immune from treble damages<sup>28</sup> (although agencies may want to give businesses time to know and understand the law before imposing these damages – see above). Otherwise, violators have little financial incentive to obey the law. In wage theft cases, the tougher laws require compensation at three times the unpaid wages.<sup>29</sup> Strong compensation should be mandatory, not up to the discretion of a judge, mediator, or agency. States should avoid compensation laws that put the burden on workers to show their employer’s illegal action was also “willful.”<sup>30</sup>

<sup>25</sup> Ichikawa, Diego Rondón, and Rebecca Smith. “Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle.” *National Employment Law Project*. NELP, Oct. 2014. Web. 29 July 2016.

<sup>26</sup> Yoon, Haeyoung, and Tsedeye Gebreselassie. “Building Robust Labor Standards Enforcement Regimes in Our Cities and Counties.” *National Employment Law Project*. NELP, Mar. 2015. Web. 29 July 2016.

<sup>27</sup> “Top Tips from Connecticut San Francisco, Seattle, and New York City.” *Center for Law and Social Policy*. CLASP, 3 Nov. 2014. Web. 29 July 2016.

<sup>28</sup> Yoon, Haeyoung, and Tsedeye Gebreselassie. “Building Robust Labor Standards Enforcement Regimes in Our Cities and Counties.” *National Employment Law Project*. NELP, Mar. 2015. Web. 29 July 2016.

<sup>29</sup> Yoon, Haeyoung, and Tsedeye Gebreselassie. “Building Robust Labor Standards Enforcement Regimes in Our Cities and Counties.” *National Employment Law Project*. NELP, Mar. 2015. Web. 29 July 2016.

<sup>30</sup> Yoon, Haeyoung, and Tsedeye Gebreselassie. “Building Robust Labor Standards Enforcement Regimes in Our Cities and Counties.” *National Employment Law Project*. NELP, Mar. 2015. Web. 29 July 2016.